IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 15518 of 2006(V)

PETITIONER:

K.K. JOSEPH, S/O. KURIAKOSE,
RESIDING AT KALARICKAL HOUSE, KOVILKADAVU,
SAHAYAGIRI P.O., KANTHALLOOR VILLAGE,
DEVIKULAM TALUK.

BY ADV. SRI.LATHEESH SEBASTIAN.

RESPONDENT:

P.C. SUKUMARAN, S/O. CHENNI,
RESIDING AT S.R.V. SADANAM, KOVILKADAVU KARA,
SAHAYAGIRI P.O., KANTHALLOOR VILLAGE,
DEVIKULAM TALUK, IDUKKI DISTRICT.

BY ADV. SRI.P.RAVINDRA BABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.15518/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER OF THE SUB COURT, KATTAPPANA IN I.A. NO. 931/02 DTD. 22/09/2004.

EXT.P.2: COPY OF THE I.A. NO. 827 (A)/04.

EXT.P.3: COPY OF THE ORDER DTD. 30/09/2004.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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W.P.(C) No.15518 OF 2006

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Dated this the 15th day of October 2007

JUDGMENT

This writ petition is preferred against the order of the Sub Court, Kattappana in I.A.No.931/2002 in A.S.No.46 of 2002. The said application is one for condoning the delay in filing the appeal. The court, on a consideration of the materials, allowed it on payment of cost of Rs.500/- and directed the petitioner therein to pay the cost to the respondent on or before 30.9.2004. On 30.9.2004, the petitioner therein moved an application seeking extension of time for deposit of the amount on account of his illness. The court did not grant time and therefore dismissed the application. I feel that there has been no gross negligence or grave misconduct on the part of the petitioner therein. He had moved the court at least within the stipulated time for extension of time. Therefore the court should have considered it sympathetically and granted him few days' time for depositing the amount.

Therefore the order requires correction. The order under challenge is set aside in the sense that the dismissal for non-payment of cost is interfered

with. I direct the petitioner herein to pay the cost of Rs.500/- as ordered by the court below on or before 30.10.2007 and in that case, the court below shall condone the delay, restore the appeal to file and proceed to dispose it of in accordance with law.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-